

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
at CHATTANOOGA

UNITED STATES OF AMERICA	)	
	)	
	)	No. 1:05-CR-149
v.	)	
	)	Chief Judge Curtis L. Collier
	)	
CORNELL P. GUNTER	)	
	)	

**MEMORANDUM AND ORDER**

Before the Court is a motion for judicial inquiry filed by the Government (Court File No. 12) on March 10, 2006. The Government argues Defendant's current counsel may have a conflict of interest in his concurrent representation of Clifton Omar Robinson<sup>1</sup> ("Robinson") and cannot continue to represent Defendant. Defendant, through counsel, filed a response in opposition to the Government's motion (Court File No. 14).

In a motion for judicial inquiry, the burden is on the party requesting inquiry to allege sufficient facts to show a serious potential for conflict to warrant the inquiry. The judicial inquiry into a motion by the Government to disqualify a criminal defendant's counsel ordinarily requires an evidentiary hearing. *United States v. Mays*, 69 F.3d 116, 121 (6th Cir. 1995). When facts alleged in the motion fail to disclose an actual or potential conflict of interest, a hearing is not required.

After reviewing the record, the Court concludes it is not necessary to conduct an evidentiary hearing because the Government's motion fails to articulate facts that warrant such an inquiry. The Government's motion alleges Defendant and Robinson are "very close friends" who allegedly sold

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<sup>1</sup>Robinson was charged separately in a four-count indictment in Case No. 1:04-CR-178. On April 7, 2006 Robinson pleaded guilty to Count Two of the four-count indictment.

cocaine together in the past (Court File No. 12, p. 2). However, the Government does not allege, nor is there any evidence to show, Robinson intends to testify against Defendant at trial.

Therefore, the Court **DENIES** the Government's motion for a judicial inquiry (Court File No. 12). If, later on, the Government has additional facts to suggest a serious potential for a conflict of interest, the Government is free to file an appropriate motion.

**SO ORDERED.**

**ENTER:**

/s/  
**CURTIS L. COLLIER**  
**CHIEF UNITED STATES DISTRICT JUDGE**